

**CITY OF NORTH MIAMI**  
**PROFESSIONAL SERVICES AGREEMENT**  
(STRATEGIC COMMUNICATIONS CAMPAIGN – SOLE SOURCE)

**THIS PROFESSIONAL SERVICES AGREEMENT** ("Agreement") is entered into this \_\_\_\_\_ day of 4/17/2014, 2014, between the **City of North Miami**, a Florida municipal corporation with a principal address of 776 NE 125<sup>th</sup> Street, North Miami, Florida ("City"), and **The M Network, Inc.**, a for-profit corporation organized and existing under the laws of the State of Florida, having its principal office at 7390 NE 4<sup>th</sup> Court, Suite 101, Miami, FL 33138 ("Consultant"). The City and Consultant shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

**RECITALS**

**WHEREAS**, the City expeditiously requires Consultant's expertise and knowledge in the unique field of strategic communications, including advertising, public affairs, government and media relations to develop a public service campaign highlighting the City of North Miami Museum of Contemporary Art operations within the City ("Services"), as further delineated in the Consultant's Proposal dated April 11, 2014 ("Proposal"), incorporated and attached hereto as "Exhibit A"; and

**WHEREAS**, this Agreement is intended to supplement the Proposal and further defines the provision of Services to the City by the Consultant; and

**WHEREAS**, City administration has selected Consultant as a sole source provider of Services due to the affliction of exigent circumstances and the specialized nature of the professional Services sought by the City; and

**WHEREAS**, Consultant possesses all necessary qualifications and specialized expertise to perform the Services for the City, and has expressed the capability and desire to perform such Services; and

**WHEREAS**, pursuant to Section 7-143 of the City Code of Ordinances, the sole source procurement of goods and services is allowed where the unique and specialized expertise of one source of Services is unlikely to be obtained from any other source and the agreement, by its very nature, is not suitable to competitive bids or proposals; and

**WHEREAS**, the Interim City Manager finds it in the best interest of the City to enter into a sole source agreement with Consultant for the provision of Services, using the most cost effective means currently available to the City.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

**ARTICLE 1 - RECITALS**

1.1 The recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

## **ARTICLE 2 - TERM**

2.1 This Agreement is for a term of three (3) months from the date of execution or until such time the Services are completely rendered, whichever comes first, or unless earlier terminated by a Party pursuant to this Agreement.

## **ARTICLE 3 - INDEPENDENT CONTRACTOR**

3.1 The Consultant is, and shall be in the performance of all work, services, and activities for the City, an independent contractor, and not an employee, agent, or servant of the City. The Consultant shall exercise control over the means and manner in which it and its employees perform the Services, and in all respects, Consultant's relationship and the relationship of its employees with the City shall be that of an independent contractor and not as employees or agents of the City. Therefore, the Consultant shall not attain any rights or benefits under the City's Civil Service or Pension Ordinances or any rights generally afforded to the City's classified or unclassified employees.

## **ARTICLE 4 - FEES**

4.1 The City agrees to compensate Consultant for Services performed on behalf of the City the amount of Twenty Four Thousand Dollars (\$24,000.00) said amount to be paid in three equal installments of Eight Thousand Dollars (\$8,000.00) each; the first payment due at execution, with the second and third payments at the end of the second month and third month respectively. Any additional fees and costs incurred shall be paid at the end of the month in which they were incurred. All invoices are due net 30.

## **ARTICLE 5 - SCOPE OF SERVICES**

5.1 Consultant shall perform Services in accordance with that degree of care and skill ordinarily exercised by reputable members of its profession.

5.2 Consultant represents and warrants to the City that: (i) Consultant possesses all qualifications, licenses and expertise required in the provision of Services, with personnel fully licensed by the State of Florida; (ii) Consultant is not delinquent in the payment of any sums due the City, including payment of permit fees, local business taxes, or in the performance of any obligations to the City; (iii) all personnel assigned to perform work shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; (iv) the Services will be performed in the manner as described in the Proposal for the budgeted amounts, rates and schedules; and (v) the person executing this Agreement on behalf of Consultant is duly authorized to execute same and fully bind Consultant as a Party to this Agreement.

5.3 Consultant agrees and understands that: (i) any and all subconsultants used by Consultant shall be paid by Consultant and not paid directly by the City; and (ii) any and all liabilities regarding payment to or use of subconsultants for any of the work related to this Agreement shall be borne solely by Consultant. Any work performed for Consultant by a subconsultant will be pursuant to an appropriate agreement between Consultant and subconsultant which specifically binds the subconsultant to all applicable terms and conditions of this Agreement.

## **ARTICLE 6 - PUBLIC RECORDS**

6.1 Please be advised that the City and all its activities, unless exempt, are subject to the

Public Records Law (Chapter 119, Florida Statutes) and the Sunshine Law (Section 286.011, Florida Statutes). As such, the Consultant must observe and comply with the requirements of said laws and all related City policies and procedures.

#### **ARTICLE 7 – PROFESSIONAL LIABILITY INSURANCE**

7.1 The Consultant shall maintain in full force and effect, during the life of this Agreement, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) for each occurrence with a maximum deductible of Fifty Thousand Dollars (\$50,000.00). A certificate of Professional Liability Insurance, satisfactory to the City, shall be furnished to the City immediately upon commencement of Services. Such certificate of insurance will provide the City with thirty (30) days prior written notice of any cancellation or non-renewal.

#### **ARTICLE 8 – CONFLICTS OF INTERESTS**

8.1 The Consultant shall represent to the City that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of Services, as provided in Part III of Chapter 112, Florida Statutes (2013). The Consultant shall promptly notify the City Attorney's Office, in writing, of all potential conflicts of interest, which may influence or appear to influence the Consultant's judgment or quality of Services. The notice shall identify the perspective business association, interest, or circumstance and the nature of work that the Consultant wants to undertake and shall request the City's opinion as to whether the association, interest or circumstance would, in the opinion of the City Attorney, constitute a conflict of interest that is entered into by the Consultant. The City shall notify the Consultant of its opinion within ten (10) days of receipt of notification by the Consultant. If, in the opinion of the City Attorney, the prospective business association, interests, or circumstance would not constitute a conflict of interest, then such business association, interests, or circumstance shall not be deemed to be a conflict of interest with respect to the Services provided by the Consultant.

#### **ARTICLE 9 - DEFAULT**

9.1 In the event the Consultant fails to comply with any provision of this Agreement, the City may declare the Consultant in default by written notification. The City shall have the right to terminate this Agreement if the Consultant fails to cure the default within ten (10) days after receiving notice of default from the City. If the Consultant fails to cure the default, the Consultant will only be compensated for completed Services. In the event partial payment has been made for such Services not completed, the Consultant shall return such sums due to the City within ten (10) days after notice that such sums are due. The Consultant understands and agrees that termination of this Agreement under this section shall not release Consultant from any obligations accruing prior to the effective date of termination.

9.2 Consultant will use its best efforts to provide the Services under this Agreement in a professional and timely manner; however, Consultant will not be liable to the City for any loss, damage, claim, liability or expense of any kind caused directly or indirectly by any action (other than for Consultant's negligence or breach of this Agreement) taken in furnishing the Services to be provided under this Agreement.

9.3 Neither Consultant nor the City will be liable to the other for any special indirect, incidental, consequential, or punitive damages, including without limitation, lost or imputed profits, lost savings, loss of goodwill, or legal expenses, resulting from any cause whatsoever, whether liability is asserted in contract, tort, or otherwise. In no event may the aggregate damages claimed by the City under this Agreement exceed the total fees actually paid by the City to Consultant under this Agreement, regardless of the number or extent of such claims.

#### **ARTICLE 10 - INDEMNIFICATION**

10.1 Each Party agrees to indemnify the other from and against any and all claims, liabilities, suits, losses, claims, fines, and/or causes of action that may be brought against a Party, its officers, agents and employees, on account of any negligent act or omission of the other Party, its agents, servants, or employees in the performance of Services under this Agreement and resulting in personal injury, loss of life or damage to property sustained by any person or entity, caused by or arising out of a Party's negligence within the scope of this Agreement, including all costs, reasonable attorneys fees, expenses, including any appeal, and including the investigations and defense of any action or proceeding and any order, judgment, or decree which may be entered in any such action or proceeding, except for damages specifically caused by or arising out of the negligence, strict liability, intentional torts or criminal acts of a Party, its officer, agents, employees or consultants, which claims are lodged by any person, firm, or corporation.

10.2 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

#### **ARTICLE 11 - RIGHT OF CITY TO TERMINATE**

11.1 The City has the right to terminate this Agreement at any time for cause upon written notice to the Consultant, and said termination shall become effective upon receipt of said notice. The Consultant may terminate for cause upon written notice to the City, and said termination shall become effective upon receipt of said notice. Upon Termination by either Party, the City shall pay to Consultant any remaining balance due at that time, and the Consultant shall transfer all work in progress, completed work, and other materials related to the terminated Services to the City Attorney's Office.

#### **ARTICLE 12 - OWNERSHIP OF DOCUMENTS**

12.1 All documents developed by Consultant under this Agreement shall be delivered to the City by the Consultant upon completion of the Services and shall become property of the City, without restriction or limitation of its use. The Consultant agrees that all documents generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, Florida Statutes.

12.2 It is further understood by and between the Parties that any information, writings, tapes, contract documents, reports or any other matter whatsoever which is given by the City to the Consultant pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Consultant for any other purposes whatsoever without the written consent of the City.

12.3 In the event the Agreement is terminated, Consultant agrees to provide the City all such documents within ten (10) days from the date the Agreement is terminated.

### **ARTICLE 13 - NOTICES**

13.1 All notices, demands, correspondence and other communications between the Parties shall be deemed sufficiently given under the terms of this Agreement when dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows or as the same may be changed from time to time:

If to the Consultant:                      The M Network, Inc.  
Thom Mozloom, President  
7390 NE 4<sup>th</sup> Court, Suite 101  
Miami, FL 33138  
Phone: (305) 571-1455  
Fax: ( ) -  
Email: [Thom@themnetwork.com](mailto:Thom@themnetwork.com)

If to City:                                      Interim City Manager  
City of North Miami  
776 N.E. 125<sup>th</sup> Street  
North Miami, FL 33161

With a copy to:                                City Attorney  
City of North Miami  
776 N.E. 125<sup>th</sup> Street  
North Miami, FL 33161

13.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party. Such notices shall be deemed given upon receipt by the addressee.

13.3 In the event there is a change of address and the moving Party fails to provide notice to the other Party, then notice sent as provided in this Article shall constitute adequate notice.

### **ARTICLE 14 - MISCELLANEOUS PROVISIONS**

14.1 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

14.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the contract documents, shall survive final payment, completion and acceptance of the Services and termination or completion of the Agreement.

14.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement

be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

14.4 This Agreement constitutes the sole and entire agreement between the Parties. No modification or amendments to this Agreement shall be binding on either Party unless in writing and signed by both Parties.

14.5 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

14.6 The City reserves the right to audit the records of the Consultant covered by this Agreement at any time during the provision of Services and for a period of three years after final payment is made under this Agreement.

14.7 The Consultant agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

14.8 Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City.

14.9 The City is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.

14.10 The professional Services to be provided by Consultant pursuant to this Agreement shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Services.

14.11 This Agreement shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

14.12 The Consultant agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

14.13 All other terms, conditions and requirements contained in the Proposal, which have not been modified by this Agreement, shall remain in full force and effect.

14.14 In the event of any dispute arising under or related to this Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

14.15 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

The M Network, Inc., a Florida for-profit corporation:

Corporate Secretary or Witness:

**"Consultant"**

By: \_\_\_\_\_

DocuSigned by:  
By: Thom Mozloom  
E8C7E5EF2C7B439...

Print Name: \_\_\_\_\_

Print Name: Thom Mozloom

Date: \_\_\_\_\_

Date: 4/17/2014

ATTEST:

City of North Miami, a Florida municipal corporation: **"City"**

DocuSigned by:  
By: [Signature]  
2C7040872EE8444...  
Michael A. Etienne  
City Clerk

DocuSigned by:  
By: Aleem A Ghany  
4899D11A6EC8469...  
Aleem A Ghany  
Interim City Manager

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

DocuSigned by:  
By: Regine Monestime  
787BB01BC7E413...  
Regine M. Monestime  
City Attorney



**Communications Proposal: City of North Miami**  
**RE: Keep MOCA In North Miami**  
**April 11, 2014**

**Presented by : Thom Mozloom @ The M Network**

**About The M Network**

The M Network is a full service strategic communications firm based in South Florida with offices on the east and west coast. Our team provides strategic consulting that utilizes disciplines such as advertising, public affairs, government and media relations and content development.

Our experience in public policy issues is deep and varied. Some clients include:

- The Miami-Dade County Homeless Trust
- The Children's Trust
- The Children's Movement of Florida
- The University of Miami
- Arms with Ethics
- Pro-bono services for Florida DCF and the Miami-Dade County Public Libraries

While we are based in Miami, our reach also expands nationally with clients such as the Center for Disease Control, The California Endowment, Enroll America and The City of Mount Pleasant (Iowa).

Aside from our work with public policy and municipalities, The M Network has also provided work on behalf of:

- The Perez Art Museum
- History Miami
- The Adrienne Arsht Center

We believe our decades-plus policy and municipality experience, combined with our work in the arts community, makes The M Network uniquely suited to work with you on the MOCA project.

## **Our Understanding**

We are ready to stand alongside The City of North Miami in an aggressive public education / public communication campaign to help save one of your community's most treasured resources – MOCA. That said, hiring The M Network will be as much about marketing as it will be about doing the proper research to determine the best ways for North Miami to invest in MOCA.

More than simply releasing statements about what has transpired (i.e. defending against MOCA's claims of breach of contract and taking a position on MOCA's desire to utilize these accusations to expedite a proposed merger with the Bass Museum), The City of North Miami must create a strategy that has the support and buy-in of the community; a forward-looking plan that keeps MOCA in The City of North Miami. This plan must not only appeal to MOCA, but it must create a position that emotionally charges your community to help fight your battle.

Without the benefit of in-depth discussions with you and thought-leaders on this issue, here is a draft strategy based on research and professional insight:

- 1) React and Reload
- 2) Look Ahead
- 3) Develop Plan/Create Groundswell
- 4) Offer Plan
- 5) React/Regroup

**Of most importance is realizing that the following outlined strategy is as much a marketing plan as it is a olive branch. At the end of the day, MOCA must stay in North Miami. We believe this plan will get you there.**

### **1. React and Reload.**

- Provide immediate reaction to the press that includes a promise to rectify the situation. That promise to rectify the situation will come after The M Network and North Miami launch a fact-finding initiative. This starts by...
- Launching an opinion research campaign.
  - We need to fully define each target audience -- elected officials, Miami Beach, Arts Community, General Public, North Miami Business Community.
  - Define each target audiences' "drivers."
  - We recommend, and have had solid experience, using phone polls to determine a community's visceral reaction to the debate. Use findings to create the details of a PR and/or marketing campaign.

- Survey representatives of each target audience including the general public.

## **2. Look ahead.**

- Announce to the public that North Miami is doing its part by talking to the right community leaders and finding out exactly what kind of a plan is needed to keep MOCA.
- Host "listening" meetings with influential members of the arts community, business community, general public, business organizations, etc. Take notes, follow-up and let audiences feel they are "heard."
- Use findings and insights to map out a plan and create dynamic, undeniably solid selling points for keeping MOCA in North Miami.

## **3. Develop Plan/Create Groundswell**

- Based on data-driven research as well as needs presented by MOCA, develop an "offer to stay" to MOCA. Communicate that intention with all key audiences.
- Use all means necessary to create groundswell of support. This could include:
  - Editorial Board Meetings and presentations
  - Letters to the Editor
  - General media relations
  - Social media pushes
  - Targeted outdoor and indoor advertising
  - Residential and business mailings
  - Video presentation

## **4. Make the offer to MOCA**

This is perhaps one of the most important parts of our plan, because it is here that we present the "Plan" – the genuine efforts made to bridge the gaps, make good on the past, clarify fact from fiction and move forward with a community-endorsed blueprint. Given the detail with which the City would have moved to create this plan, should MOCA turn down the plan they would look like they were abandoning ship.

## **5. React**

We will probably have a good sense as to how the MOCA board will react to the City's Plan even before we get to this step, so rest assured we will be monitoring

perceptions and will provide various options on how to respond to insure solid brand positioning and lay the foundation for positive community relationships moving forward.

## **DELIVERABLES**

### **Month 1: React, Reload and Look Ahead**

- Strategic consulting.
- Work with City to create two press releases, as needed (we can help with distribution if necessary but we would recommend that the M Network be a fairly invisible partner so news stories are not about North Miami contracting with a marketing firm rather stories that focus on the issue at hand.)
- Put polls in the field; oversee polling results
- Train individuals to lead the community meetings
- Create meeting outlines and guidelines
- Arrange for up to ten community "Listening" meetings
- Attend up to eight one-on-one meetings with politicians and policy makers
- Use data to create core messages for each target audience

### **Month 2: Development of Plan/Local Groundswell**

- Strategic consulting.
- Create up to two press releases possibly announcing the intention of the City to provide an "Offer to Stay". A second release announcing the actual offer.
- Schedule Editorial Board Meeting with Miami Herald (if deemed necessary)
- Help with distribution of the press releases (if necessary)
- Help write one form "Letter to the Editor"; writing key messages that can be shared with supporters.
- Recommend placements for stories.
- Work with the City to identify individuals to write Letters to the Editor.
- Create streamlined social media push/Twitter push
- Recommend appropriate advertising strategies, i.e., outdoor billboard, print, mailings, etc.

### **Month 3: Make the Offer to MOCA, React**

*(Note, this strategy may take place before the three-month mark, but for the purpose of the proposal, we are putting it in month three.)*

- Strategic consulting.

- o Create press materials on the final offer to Keep MOCA (one overview press release, fact sheet and perhaps Q and A)
- o Provide direction for the best ways to announce the news – press conference or one-on-one press briefings
- o Coordinate the announcement
- o Provide rehearsal for any public announcement
- o Create briefing documents for speakers
- o Create visuals for the announcement

### **Expenses**

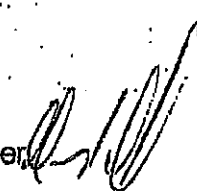
The following are guidelines on costs for this project:

- o Monthly Fee for The M Network - Based on this scope of work, the fee would be \$8,000 and includes items outlined in the Deliverables section, working a minimum of 50 hours and a maximum of 60 hours a month. If any month requires more than 60 hours, we will provide an estimate of the additional hours needed at \$150 per hour prior to incurring any additional hours.
- o Polling - \$12,000, not to exceed \$17,000
- o Print ad campaign including billboards, print, PowerPoint deck and social media visuals/icon - \$5,000
- o Street level billboards - \$4,000 a piece
- o Print ads – Cost depends greatly on publication, circulation, size of ad, etc.
- o Direct mail - Design included in above cost. Additional costs would be the mailing list (cost depends on quantity of pieces being mailed), printing (cost based on whether piece is bl/wh or color, size and quantity) and postage. Costs could range from .10/piece plus postage to .90/piece plus postage.
- o Video - \$6,000. This is our non-profit rate for a :30 TV commercial. This would include creating all original footage, interviews, crew, make-up, lighting and sound crew for the best presentation possible.
- o Graphic Design - \$150/hour
- o Misc. fees could include mileage (.56/mile), printing, deliveries.

We appreciate your reaching out to The M Network and hope we have the chance to speak further about this proposal and how we can help you achieve the goals outlined in the RFP.

We look forward to your feedback. Feel free to call me anytime to discuss – 786-972-0489.

**NORTH MIAMI**  
**FLORIDA**  
**PURCHASING**

To: Marcanthony Tulloch, Purchasing Manager   
From: Linda Julien, Buyer  
Date: 04/14/2014  
RE: The M Network: Emergency Public Relations Services MOCA

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**RECOMMENDATION**

A contract may be awarded without competitive bids or proposals when the Director of the Purchasing department, after conducting a good faith review of available sources, determines in writing that there is only one (1) reasonable source of supply and the contract by its very nature.

I am recommending The M Network, as they are a sole source supply vendor, due to the emergency nature of the services required and unique and specialized expertise in public policy issues of the firm.

**ATTACHMENT**  
Proposal